

*** * REASONS FOR AMENDMENTS AND REMARKS * ***

Applicants wish to acknowledge with appreciation the Examiner's analysis and efforts in examining this application.

As a preliminary matter, the Examiner's rejection of Claim 19 under 35 USC § 112 is believed moot in light of the undersigned's interview with the Examiner on January 12, 2005. It was agreed that the phrase "permeability resistance" was not indefinite. It is respectfully requested that this rejection be withdrawn.

On pages 3-5 of the Official Action, the Examiner rejected Claims 19 and 21-22 under 35 U.S.C. § 103(a) as being obvious under Porter et al. (US 5,895,301). The Examiner alleges that Porter is directed to a hand-tearable moisture barrier laminate (Title) suitable for applications which require water resistance while permitting the passage of water vapor (column 1, lines 10-15).

As specifically to claim 19, the Examiner alleges that Porter teaches a laminate as shown in Figure 1 and teaches a pair of cellulosic webs 10 and 20 having a scrim 25 laminated therebetween (column 3, lines 15-25). The Examiner further alleges that Porter teaches the cellulosic webs 10 and 20 being treated with a latex polymeric resin which narrows the pores through the webs or renders them hydrophobic, or both, so as to substantially prohibit the penetration of liquid water, while not substantially interfering with the transmission of water vapor (column 3, lines 20-25). The Examiner also contends that Porter teaches that the cellulosic webs comprise at least about 30% of cellulosic fiber such as flax, jute, hemp, ramie, sisal, abaca, etc. (column 3, lines 30-40) and notes that sisal is a "natural filler fiber," therefore, the presence of sisal meets Applicant's requirement of both sisal and natural filler fibers being present in the core. The Examiner equates cellulosic web 20 to Applicant's "core layer" comprising the latex polymeric resin, or "binding resin." The Examiner determined that Porter teaches that the scrim 25 can be in the form of a woven material comprising fibers such as polyester, glass, rayon, or combinations thereof (column 3, lines 60-68) and equates the scrim 25 to Applicant's "woven

fiber layer.” The Examiner contends that Porter teaches that the webs 10 and 20 and the scrim 25 are bonded together to form a single composite having a thickness preferably between 3-10 mils (column 4, lines 5-19) and notes that if the composite of webs 10 and 20 and scrim 25 has a thickness of preferable between 3-10 mils, each layer would have a thickness of less than 10 mils and, according to Hawley’s Condensed Chemical Dictionary, a “film” is an extremely thin continuous sheet of a substance that may or may not be in contact with a substrate. The Examiner contends that there is no precise upper limit of thickness, but a reasonable assumption of 0.010 inch (10 mils). The Examiner, therefore, equates the impregnated cellulosic web 10 to Applicant’s “film layer.” The Examiner alleges that in Figure 1, the composite laminate additionally comprises layer 37 and Porter notes that the nonadherent layer can be replaced with a low density adhesive layer 39, as shown in Figure 5 (column 5, lines 29-35). The Examiner stated that Porter teaches that the adhesive can be potentially pore-blocking (column 5, lines 15-20), which implies water resistance. The Examiner equates the low density adhesive layer 39 to Applicant’s “permeability-resistance film layer.”

Claim 19 has been amended to further clarify the claimed subject matter as a headliner composite. Accordingly, it is respectfully requested that the rejection of Claim 19 in view of Porter be withdrawn. Claim 19 is distinguishable from Porter for several reasons. First, the cellulosic web disclosed in Porter is not a headliner core layer. As provided in the accompanying affidavit by one of the inventors of the present application, headliners are known in the art to require particular mechanical properties and construction. Attached to the affidavit is an example specification for such a headliner. In contrast to the claimed headliner, the Porter reference specifically requires that its webs and scrim together have a combined thickness of about 1 to 25 mills and can be “torn by hand with no more effort than that required to tear a piece of paper.” (See col. 4, lines 10-15 of U.S. Patent No. 5,895,301.) Clearly the web is not intended to be the same structure as a vehicle headliner.

In addition, the claimed film layer is not believed to be equal to the “impregnated cellulosic web” of Porter. Specifically, Porter describes the webs as being treated with a latex

polymeric resin. (See col. 3, lines 18 and 19.) Treating fibers that form a web is clearly not the same as applying a film layer to the surface of the core layer, as recited in Claim 19. As stated in Mr. Balthes' Rule 132 statement, the resin appears to permeate through the body of the web, as stated in column 3, lines 17 through 34 of Porter. Because the resin narrows the pores in the web, it is intended to be absorbed in the body of the web, rather than remain a film on the surface.

Accordingly, it is respectfully believed that Porter does not anticipate the claimed vehicle headliner, and withdrawal of the rejection is respectfully requested.

Regarding claim 21, the Examiner alleges that Porter teaches that the woven fabric can comprise polyester (column 3, lines 55-68). Regarding claim 22, The Examiner alleges that Porter discloses the claimed invention except for that the woven material can comprise polypropylene and cellulose. The Examiner further stated that it would have been obvious to one having ordinary skill in the art at the time the invention was made to create a woven material comprising polypropylene and cellulose, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of design choice. *In re Leshin*, 125 USPQ 416. The Examiner asserts that in the present invention, one would have been motivated to use a woven material comprising polypropylene and cellulose due to the wide availability and cost of the materials, relatively high mildew resistance and aesthetic appeal highly desired for building and construction applications.

In light of the amendments made to Claim 19 and the arguments made herein and in the Rule 132 Affidavit with respect to the Porter reference, it is respectfully believed that this rejection is moot. In addition, during an interview with the Examiner on January 12, 2004, the Examiner withdrew the case law citations made in the office action. Since many of those references were not ascertainable by the undersigned. Accordingly, it is respectfully requested that this rejection be withdrawn.

On pages 5 through 7 of the Official Action, the Examiner rejected Claims 20 and 23-26 under 35 U.S.C. § 103(a) as being obvious under Porter et al. (US 5,895,301) in view of Phillips et al. (US 6,479,117). The Examiner alleges that Porter teaches the claimed invention but fails to disclose that the impregnated cellulosic web 10, equated to Applicant's "film layer," can comprise a polypropylene film as required by claim 23 or that the binding resin in Applicant's "core layer" can comprise nylon film as required by claim 25.

The Examiner further alleges that it has been held that, "it is prima facie obvious to substitute equivalents, motivated by the reasonable expectation that the respective species will behave in a comparable manner or give comparable results in comparable circumstances." *In re Stzff* 1 18 USPQ 343, *In re Jezel* 158 USPQ 99, "the express suggestion to substitute one equivalent for another need not be present to render the substitution obvious." *In re Font*, 213 USPQ 532. In view of this ruling, it is the position of the Examiner that nylon and polypropylene will provide a waterproofing effect in the same manner as vinyl chloride.

For the reasons previously discussed, it is respectfully believed that this rejection is now moot. In addition, the case law citations relied upon in the rejection do not appear to be correct and have been withdrawn. Accordingly, it is respectfully requested that this rejection be withdrawn.

As to claims 20, 24 and 26, The Examiner alleges that Porter discloses the claimed invention except that the "core layer" comprises about 25-35 polypropylene binder, sisal is present in the amount of 35-45 weight percent and the natural fibers are present in the amount of 25-35 weight percent as required by claim 20, the polypropylene film layers is 4 mil as required by claim 24 and the nylon film layer is 4 mil as required by claim 26. The Examiner noted that the amount of binder, sisal, natural filler fibers and film thickness are result effective variables; for example, as the amount of sisal fibers increases, the laminate becomes higher in strength and durable. As the amount of binder increases, the laminate becomes more integrated and stiff. The Examiner asserts that the thickness of the film directly relates to the durability and flexural strength of the laminate, and that it would have been obvious to one having ordinary

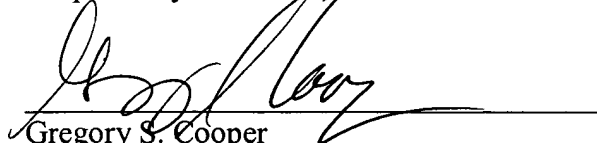
skill in the art at the time the invention was made to create the "core layer" comprises about 25-35 polypropylene binder, sisal is present in the amount of 35-45 weight percent, and the natural filler fibers are present in the amount of 25-35 weight percent, as required by claim 20, the polypropylene film layer is 4 mil, as required by claim 24, and the nylon film layer is 4 mil, as required by claim 26, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 198). In the present invention, one would have been motivated to optimize the amount of sisal, binder, and film thickness in the laminate in order to create a laminate which is high in both tensile and flexural strength, coarse, and durable.

For the reasons previously discussed, it is respectfully believed that this rejection is now moot. In addition, the case law citation relied upon in the rejection does not appear to be correct and has been withdrawn. Accordingly, it is respectfully requested that this rejection be withdrawn.

If, upon consideration of the above, the Examiner should feel that there remain outstanding issues in the present application that could be resolved, the Examiner is invited to contact Applicants' patent counsel at the telephone number given below to discuss such issues.

A Petition for Extension of Time under 37 C.F.R. §1.136 accompanies the filing of this document. To the extent necessary, a petition for an extension of time under 37 C.F.R. §1.136 is hereby made. To the extent additional fees are required, please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 02-1010 (29595/82608) and please credit any excess fees to such deposit account.

Respectfully submitted,



Gregory S. Cooper
Reg. No. 40,965
Direct Line (260) 425-4660